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MICHAEL SALES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SALES,

Plaintiff,

vs.

COUNTY OF VENTURA; CITY OF
THOUSAND OAKS, a Municipality;
SGT. BRIAN SLOMINSKI; and
DOES 1 THROUGH 10,
INCLUSIVE,

Defendants.

CASE NO.: CV 15-3101 PSG (PLAx)

**FIRST AMENDED COMPLAINT
FOR DAMAGES AND DEMAND
FOR JURY TRIAL**

- 42 U.S.C. § 1983
- 42 U.S.C. § 1985
- 42 U.S.C. § 1988
- Unconstitutional Policy
- Violation of Fourth, Fifth
and Fourteenth Amendment
of United States Constitution
- Negligent Retention, Hiring,
Training, Supervising
- California Civil Code §§ 51.7,
52 and 52.1
- Unruh Act
- False Imprisonment
- False Arrest
- Unlawful Search and Seizure
- Retaliation
- Harassment
- Intentional Infliction of Emotional
Distress
- Violation/Deprivation of Civil
Rights Under Color of Law
- Negligence

1 PLAINTIFF MICHAEL SALES , HEREINAFTER REFERRED TO AS
2 "Plaintiff", FILES THIS FIRST AMENDED COMPLAINT AND ALLEGES AS
3 FOLLOWS FOR HIS CLAIMS FOR RELIEF HEREIN:

4
5 **I**

6 **JURISDICTION**

7 1. This is an action for deprivation of civil rights under color of state law
8 brought pursuant to Title 42 United States Code Section 1983, for remedies for
9 Defendants' deprivation of Plaintiff's civil rights. By this action, Plaintiff seeks
10 all relief to which he may be entitled, under both state and federal laws, including
11 but not limited to compensatory and punitive damages, attorneys' fees and costs,
12 and prejudgment interest. Jurisdiction of the subject matter of this action is
13 established in this court pursuant to 28 U.S.C. Sections 1331 and 1343, and over
14 supplemental claims for relief arising under state law pursuant to 28 U.S.C.
15 Section 1367(a).

16 **II**

17 **VENUE**

18 2. Venue lies in this Court pursuant to 28 U.S.C. Section 1391(b)(1) & (2).

19
20 **III**

21 **CLAIMS FOR RELIEF**

- 22 3. At all times herein mentioned, Plaintiff was a citizen of the United States,
23 residing in the County of Ventura, State of California.
- 24 4. Plaintiff is informed and believes and based thereon alleges that, at all
25 times herein mentioned, Defendant COUNTY OF VENTURA is and was
26 a public entity, duly organized and existing under and by virtue of the
27 laws of the State of California and was responsible for hiring, training,
28 and supervising the conduct, policies and practices of its employees and

1 agents of the Ventura County Sheriff's Department, and all of its
2 employees.

3 5. Plaintiff is informed and believes and based thereon alleges that, at all
4 times herein mentioned, Defendant CITY OF THOUSAND OAKS is
5 and was a public entity and municipal corporation, duly organized and
6 existing under and by virtue of the laws of the State of California.

7 Plaintiff is informed and believes and based thereon alleges that
8 Defendant CITY OF THOUSAND OAKS contracts police services with
9 Defendant COUNTY OF VENTURA under the name of the "Thousand
10 Oaks Police Department" and was responsible for hiring, training, and
11 supervising the conduct, policies and practices of its employees and
12 agents of the Ventura County Sheriff's Department/Thousand Oaks
13 Police Department, and all of its employees.

14 6. Plaintiff is informed and believes, and based thereon alleges that
15 Defendant SGT. BRIAN SLOMINSKI is a natural person, Defendant
16 GREGG WEBB, PREVIOUSLY NAMED AS "Doe 4" is a natural
17 person. Plaintiff is informed and believes, and based thereon alleges that
18 and Does 5 -10 are natural persons. Defendant SGT. BRIAN
19 SLOMINSKI is and was a supervisor at the Ventura County Sheriff's
20 Department.

21 7. Plaintiff is informed and believes and based thereon alleges that at all
22 times herein mentioned, Defendants and DOES 5 through 10, inclusive,
23 are sued individually and in their official capacity as officers, detectives,
24 sergeants, captains, commanders, supervisors, and/or civilian employees,
25 and agents, policy makers and representatives for the Ventura County
26 Sheriff's Department/Thousand Oaks Police Department, a department
27 and subdivision of Defendants COUNTY OF VENTURA and CITY OF
28 THOUSAND OAKS.

- 1 8. Plaintiff is unaware of the true names and/or capacities of Defendants
2 sued as Does 1 through 3 and Does 5 through 10, inclusive, and,
3 therefore, sue said Defendants by such fictitious names. Plaintiff will
4 amend this complaint, by leave of the court if necessary, to allege their
5 true names and/or capacities when ascertained. Plaintiff is informed and
6 believes and based thereon alleges, that Defendants Does 1 through 3 and
7 Does 5 through 10, inclusive, and each of them, were the agents and
8 servants of the other Defendants and at all times were acting, within the
9 scope of said agency and are jointly obligated with the remaining
10 Defendants.
- 11 9. Plaintiff has complied with all applicable statutes by filing the Claim for
12 Damages or Injury on March 2, 2015 with the County of Ventura and
13 City of Thousand Oaks (Attached herewith as Exhibit "A" and
14 incorporated herein by this reference, are conformed copies of the
15 Claims.) The Claims were denied on March 9, 2015 by County of
16 Ventura and on March 20, 2015 by City of Thousand Oaks. (Exhibit
17 "B".)

18
19 **IV**

20 **STATEMENT OF FACTS**

- 21 10. Plaintiff refers to and incorporates herein by reference each and every
22 allegation contained in Paragraphs 1 through 9, inclusive, as if set forth in
23 full here.
- 24 11. On or about December 31, 2014, at or about 7:00 a.m., Plaintiff was
25 inside his residence located at 884 Old Farm Road, Thousand Oaks,
26 California. Plaintiff was leasing the house from Mr. John Flynn. At or
27 about 7:30 a.m. in the morning, Plaintiff heard a loud banging on his
28 front door which had several locks. Plaintiff went to his door to find out

1 who was banging on his door and was informed that it was the Ventura
2 County Sheriff's Department. Plaintiff informed the deputies that he
3 needs to find the key to unlock the door. The deputies kept banging on
4 the door while Plaintiff was looking for the key. Plaintiff was unable to
5 find the key for the front door, therefore, he opened the garage to exit the
6 property and talk to five (5) deputies. About ten (10) deputies, names
7 unknown, ran inside the house with their guns drawn and handcuffed
8 Plaintiff without questioning him.

9 12. When Plaintiff asked the deputies why he was being detained and why
10 his house was being searched, Plaintiff was informed that they had a
11 search warrant for John and Brandon Flynn. Plaintiff informed the
12 deputies that they were in the wrong house. John and Brandon Flynn did
13 not live in that house and he was not John Flynn. Plaintiff showed the
14 deputies his identification and the lease agreement proving that he was
15 not the person on the search warrant which he was never provided with.

16 13. Although the deputies knew that John and Brandon Flynn did not reside
17 at that property, they kept Plaintiff detained and continued searching his
18 house. Plaintiff asked for water and was deprived of water. After
19 deputies completed their search, they released Plaintiff and provided him
20 with the property receipt which showed that they took a paintball gun
21 which belonged to Plaintiff's son and a garage door receipt with "John
22 Flynn" name on it.

23 14. On December 31, 2014, Defendants unlawfully entered onto Plaintiff's
24 property, damaged Plaintiff's property, unlawfully detained, falsely
25 imprisoned, falsely arrested Plaintiff and violated Plaintiff's civil rights.

26 15. The above referenced acts and omissions of Defendants and each of
27 them, were conducted in their law enforcement capacity in violation of
28

1 Plaintiff's Fourth, Fifth and Fourteenth Amendments under 42 U.S.C. §
2 1983.

3 16.As a result of the above described acts and omissions of Defendants and
4 each of them, Plaintiff suffered emotional distress and mental suffering,
5 humiliation and indignity, false arrest and imprisonment, unlawful
6 detention, loss of liberty, stress and loss of standing in the community,
7 the exact amount of which will be determined at trial.
8

9 **INJURIES TO PLAINTIFFS**

10 17.As a result of the conduct of the Defendants as stated above, Plaintiff has
11 suffered and will continue to suffer physical and emotional distress and
12 injuries, humiliation and indignity, shock and fear from removal from
13 familiar surroundings, indignity from detention, imprisonment, arrest,
14 and search, physical consequences, loss of liberty, loss of income, stress,
15 and loss of standing in the community.
16

17 **V**

18 **FIRST CAUSE OF ACTION**

19 **(42 U.S.C. § 1983 – MONELL CLAIM and 42 U.S.C. § 1988)**

20 **BY PLAINTIFF AGAINST DEFENDANTS COUNTY OF VENTURA, CITY**
21 **OF THOUSAND OAKS AND DOES 1 THROUGH 3, INCLUSIVE**

22 18.Plaintiff refers to and incorporates by reference the allegations in
23 Paragraphs 1 through 17, inclusive, as if set forth in full here.

24 19.Defendants COUNTY OF VENTURA, CITY OF THOUSAND OAKS
25 and Does 1 through 3, inclusive, are alleged to have maintained a policy
26 permitting the occurrence of the type of wrongs described herein, and
27 based on the principal set forth in Monell vs. New York City Department
28

- 1 of Social Services (1978) 436 U.S. 648 and Heller vs. Bushey (9th Cir.
2 1985) 759 F.2d 1371, are liable for all injuries sustained by Plaintiff.
- 3 20. Plaintiff's civil rights were violated under 42 U.S.C. § 1983 when
4 Plaintiff was unlawfully detained, falsely imprisoned, falsely arrested,
5 and his residence was unlawfully searched.
- 6 21. In perpetrating the above referenced acts and omissions, the Defendant
7 COUNTY OF VENTURA, hereinafter referred to as "County", was at all
8 relevant times herein a government entity, CITY OF THOUSANT
9 OAKS, hereinafter referred to as "City", was at all relevant times herein,
10 a municipality, who contracts police services with the COUNTY OF
11 VENTURA, Ventura County Sheriff's Department was a department and
12 subdivision of Defendant COUNTY OF VENTURA and Does 5 through
13 10, inclusive were at all times herein mentioned agents/employees of
14 Defendants COUNTY OF VENTURA, CITY OF THOUSANC OAKS,
15 VENTURA COUNTY SHERIFF'S DEPARTMENT and Does 1 through
16 3, inclusive.
- 17 22. Defendants, County, City and Does 1 through 3, inclusive, have
18 maintained a policy or custom of a) making unlawful detention and/or
19 arrest; (b) improperly disciplining agents/employees of the County of
20 Ventura and City of Thousand Oaks; (c) improperly investigating
21 complaints of wrong-doing by agents/employees of the Ventura County
22 Sheriff's Department; (d) improperly selecting, training, and supervising
23 agents/employees of the Ventura County Department.
- 24 23. The acts set forth herein constitute a policy, practice, or custom of
25 ordering, ignoring, encouraging, causing, tolerating, sanctioning and/or
26 acquiescing in the violation by Defendants County and City employees,
27 namely employees within Ventura County Sheriff's Department, of the
28 constitutional rights of employees on matters of public concern.

1 24. The acts and failures to act as alleged herein also result from a custom,
2 practice or policy of inadequate training in a deliberate indifference of the
3 rights of employees who speak out on matters of public concern, and the
4 injuries suffered by Plaintiff as alleged herein were caused by such
5 inadequate training and supervision.

6 25. Defendants and Does 1 through 3, inclusive, are policy-makers for
7 Defendants County and City and Does 1 through 3, inclusive. The acts
8 and failures to act as alleged herein were done pursuant to policies and
9 practices instituted and enforced by Defendants and Does 1 through 3,
10 inclusive, pursuant to their authority as a policy-maker for Defendants
11 County and City and Does 1 through 3, inclusive.

12 26. Therefore, Defendants County and City and Does 1 through 3, inclusive,
13 are liable for Plaintiff's injuries pursuant to 42 U.S.C. § 1983 and Monell
14 vs. Department of Social Services, 436 U.S. 658 690, 694 (1978), Karim-
15 Panahi vs. Los Angeles Police Department, 839 F.2d 621 (1988); see
16 also, Leatherman vs. Tarrant County Narcotics Intelligence &
17 Coordination Unit, 507 U.S. 163 (1993) (rejecting application of
18 heightened pleading standard in municipal liability cases).

19 27. As a result of the above described intentional acts and omissions of the
20 Defendants and each of them, Plaintiff's constitutional rights, that is, the
21 Fourth, Fifth, and Fourteenth Amendments were violated when Plaintiff
22 was unlawfully detained, falsely imprisoned, and falsely arrested.

23 28. The above referenced acts and omissions of Defendants and each were
24 conducted in their law enforcement capacity.

25 29. As a result of the acts and omissions of Defendants and Does 1 through
26 3, inclusive, are liable for Plaintiff's injuries under the 42 U.S.C. § 1983
27 and Monell vs. Department of Social Services, 436 U.S. 658, 690, 694
28 (1978), Karim-Panahi vs. Los Angeles Police Department, 839 F.2d 621

(1988); see also Leatherman vs. Tarrant County Narcotics Intelligence & Coordination Unit, 507 U.S. 163 (1993) (rejected application of heightened pleading standard in municipal liability cases).

30. As a result of the wrongful acts of Defendants and Does 1 through 3, inclusive, Plaintiff has suffered physical and emotional distress and injuries, humiliation, shock and fear from removal from familiar surroundings, indignity from arrest, search, physical consequences, loss of liberty, stress, and loss of standing in the community, the exact amount of which will be determined at trial. Accordingly, Plaintiff seeks compensation from above Defendants, including attorneys' fees, pursuant to 42 U.S.C. § 1988.

SECOND CAUSE OF ACTION

VIOLATION OF FOURTH, FIFTH AND FOURTEENTH AMENDMENT

OF UNITED STATES CONSTITUTION

42 USC §§ 1983, 1985 AND 1988

BY PLAINTIFF AGAINST ALL DEFENDANTS

31. Plaintiff refers to and incorporates by reference the allegations of Paragraphs 1 through 30, inclusive, as if set forth in full herein.

32. This cause of action arises under Title 42 United States Code, §§ 1983, 1985, and 1988 wherein Plaintiff seeks to redress deprivation under color of state law of a right privilege or immunity secured under the Fourth Amendment and/or Fifth Amendment and/or Fourteenth Amendment.

33. Plaintiff is informed and believes and thereby alleges that at all times mentioned herein, Defendants Sgt. Brian Slominski and Does 4 through 10, inclusive, and each of them, were duly appointed, qualified and acting Ventura County Sheriff's Department agents/employees, in the County of Ventura, City of Thousand Oaks, State of California, and that at all times mentioned herein, were acting within the course and scope of

- 1 such employment for Defendants County, City, Ventura County Sheriff's
2 Department and Does 1 through 3, inclusive, under the color of state law.
- 3 34. Plaintiff is informed and believes, and thereon alleges, that at all times
4 mentioned herein, said Defendants and each of them deprived Plaintiff of
5 his rights in violation of the Fourth, Fifth and Fourteenth Amendment
6 when said Defendants unlawfully searched Plaintiff's property and
7 unlawfully detained, falsely imprisoned and arrested Plaintiffs on
8 December 31, 2014.
- 9 35. Defendants and Does 1 through 10, inclusive, and each of them, failed
10 and refused to intervene or try to prevent the wrongful conduct of the
11 other.
- 12 36. As a proximate result of the aforementioned acts of Defendants, and each
13 of them, Plaintiff was injured, and by reason thereof, Plaintiff claims
14 damages from Defendants, and each of them, in a sum to be determined
15 by this Court.
- 16 37. The aforementioned acts and omissions of each Defendant was done by
17 each Defendant knowingly, intentionally, willfully, maliciously or with
18 such callous disregard with purpose of harassment, oppression and
19 infliction injury upon the Plaintiff. This was done with reckless, wanton
20 and callousness of Plaintiff's civil rights and by reason thereof. Plaintiff
21 claims exemplary and punitive damages from Defendants Does 1 through
22 10, inclusive, in a sum determined by this Court, to deter, prevent and
23 educate said Defendants from ever inflicting such injuries again upon any
24 individual.
- 25 38. By reason of the aforementioned acts and omissions of Defendants, and
26 each of them, Plaintiff retained attorneys to represent him and did incur
27 and continue to incur investigation costs, expenses, attorney's fees, and
28

1 legal costs. Plaintiff requests payment by Defendants, and each of them,
2 for compensation of fees and costs pursuant to Title 42 USC § 1988.

3
4 **THIRD CAUSE OF ACTION**

5 **VIOLATION OF CIVIL CODE §§ 51.7 AND 52**

6 **BY PLAINTIFF AGAINST ALL DEFENDANTS**

7 39. Plaintiff realleges and incorporates by reference Paragraph 1 through 38,
8 inclusive, as though fully set forth herein.

9 40. Plaintiff is informed and believes, and thereon alleges, that Defendants
10 and each of them, violated California Civil Code Section 51.7 and
11 wrongfully denied Plaintiff his rights within the meaning of California
12 Civil Code Section 52(b) by inflicting violence and conspiring to, aiding,
13 and infliction of violence against Plaintiff by reason of his race, socio-
14 economic status, and/or ethnic heritage or by attempting to inflict such
15 injury.

16 41. By reason of the Defendants' conduct, Defendants are liable to Plaintiff
17 in the amount of twenty-five thousand dollars (\$25,000.00) and triple the
18 damages proven at trial.

19
20 **FOURTH CAUSE OF ACTION**

21 **FALSE ARREST AND FALSE IMPRISONMENT**

22 **BY PLAINTIFF AGAINST ALL DEFENDANTS**

23 42. Plaintiff incorporate by reference the allegations of Paragraphs 1 through
24 41, inclusive, as though fully set forth herein.

25 43. On or about December 31, 2014, Plaintiff was falsely arrested and falsely
26 imprisoned without probable cause.

27 44. The act of Defendants and Does 1 through 10, inclusive, and each of
28 them, as herein alleged, were willful, wanton, malicious and oppressive

1 and justify the awarding of punitive damages in an amount to be
 2 determined by the court according to proof against all Defendants, except
 3 Defendants County and City.

4
 5 **FIFTH CAUSE OF ACTION**
 6 **NEGLIGENT RETENTION, HIRING, TRAINING AND SUPERVISING**
 7 **BY PLAINTIFF AGAINST DEFENDANTS COUNTY, CITY OF LOS**
 8 **ANGELES, AND DOES 1 THROUGH 3, INCLUSIVE**

9 45.Plaintiffs incorporate by reference the allegations of Paragraphs 1
 10 through 44, inclusive, as if set forth in full herein.

11 46.Plaintiff is informed and believes and thereon alleges, that doing the acts
 12 as heretofore, alleged, Defendants County, City and Does 1 through 3,
 13 inclusive, knew or in the exercise of reasonable diligence should have
 14 known, that Defendants Does 4 through 10, inclusive, were incompetent
 15 and unfit to perform the duties for which they were employed, and that an
 16 undue risk to persons such as Plaintiff would exist because of the
 17 employment.

18 47.Despite the advance knowledge, Defendants County, City, and Does 1
 19 through 3, inclusive, retained Defendants Does 4 through 10, inclusive,
 20 as employees in disregard of the rights and safety of others. As a result
 21 of this disregard of the right of Plaintiff, Plaintiff is entitled to award of
 22 punitive damages from the Ventura County Sheriff's Department and
 23 Does 1 through 3, inclusive, in an amount to be determined by this court
 24 according to proof.

25 48.Defendants County, City and Does 1 through 3, inclusive, are alleged to
 26 have knowingly, with gross negligence and/or deliberately and
 27 indifferently to the constitutional rights of persons within the jurisdiction
 28 of the State of California, maintained or permitted a policy or custom of

53. All of the above-described acts, conduct and omission of Defendants in Paragraphs 1 through 52, inclusive, and each of them, was conducted with malice, hatred, ill will and reckless disregard for ascertaining the truth and to retaliate against Plaintiff.

54. As a direct and proximate cause of the unlawful conduct and actions alleged herein, Plaintiff suffered and continue to suffer severe emotional distress, humiliation, anxiety, credibility and loss of place in the society, the exact amount of which will be determined at trial.

EIGHTH CAUSE OF ACTION

NEGLIGENCE

BY PLAINTIFFS AGAINST ALL DEFENDANTS

55. Plaintiffs refer to and incorporate by reference the allegations of Paragraphs 1 through 54, inclusive, as if fully set forth herein.

56. Defendants, and each of them, behaved negligently toward Plaintiff causing the Plaintiff to be injured.

57. As a result of the said negligence, Defendants, and each of them, are liable for Plaintiff's damages.

WHEREFORE, PLAINTIFF MICHAEL SALES, PRAY FOR JUDGMENT ON ALL CAUSES OF ACTIONS AGAINST THE DEFENDANTS AS FOLLOWS:

1. For general damages in an amount according to proof;
2. For medical expenses in an amount according to proof;
3. For loss of earnings and earning capacity, according to proof;
4. For punitive damages in an amount appropriate to punish Defendants, except Defendants County of Ventura and City of Thousand Oaks, for their wrongful conduct and as an example for others;

5. For reasonable attorneys' fees pursuant to Title 42 of the United State Code, Section 1988(b).
6. For costs of suit herein incurred;
7. For interest allowed by law; and
8. For such other and further relief as the court deems just and proper.

Dated: August 28, 2015

LAW OFFICES OF ETAN Z. LORANT

By: 

ETAN Z. LORANT, Attorney for Plaintiff

DEMAND FOR JURY TRIAL

The Plaintiff in the above-entitled action requests a trial by jury pursuant to Rule of the Federal Rules of Civil Procedure.

Dated: August 28, 2015

LAW OFFICES OF ETAN Z LORANT

By: 

ETAN Z. LORANT, Attorney for Plaintiff